

### **REMARKS**

Claims 1 through 24 are pending in this application. Claims 1, 9 and 17 are the independent claims.

Applicants would like to thank the Examiner for the courtesies extended to Applicant's representative in a telephone interview on June 7, 2004 and in a June 17, 2004 return voice mail message from the Examiner. Pursuant to MPEP §713.04, Applicants are concurrently submitting herewith an interview summary of the aforementioned telephone interviews.

Claims 1, 2, 9, 10, 17 and 18 are rejected under 35 U.S.C. § 102(e) as being anticipated by Fairman, U.S. Patent No. 6,457,072 B1. Claims 3, 4, 11, 12, 19 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fairman in view of Osborne, U.S. Patent No. 6,078,733. Claims 5, 6, 13, 14, 21 and 22 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Fairman in view of Osborne and further in view of Krishnan et al., U.S. Patent No. 4,922,416. Claims 7, 8, 15, 16, 23 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fairman in view of Osborne and further in view of Krishnan et al. and Chow et al, U.S. Patent No. 6,052,387.

The Examiner refused to consider Applicant's previously submitted Rule 131 Declaration to overcome the 35 U.S.C. § 102(e) rejection.

Applicant again traverses the rejections, requests the Examiner withdraw the final rejection, and reconsider Applicant's response for the following reasons.

**35 U.S.C. § 102(e) Rejections**

**Claims 1, 2, 9, 10, 17 and 18 are Patentable Over the Prior Art**

Claims 1, 2, 9, 10, 17 and 18 are rejected under 35 U.S.C. § 102(e) as being anticipated by Fairman, U.S. Patent No. 6,457,072 B1. Applicant believes the Examiner improperly refused to consider Applicant's previously submitted Rule 131 Declaration and respectfully requests the Examiner withdraw the final rejection and consider the Rule 131 Declaration. Accordingly, this rejection is respectfully traversed.

The primary reference on which this and the other pending rejections rely fails to qualify as prior art against the Applicant's claimed invention. As set forth in a Rule 131 declaration by the named inventor, concurrently filed herewith, the claimed invention was conceived prior to July 29, 1999 (*i.e.*, the priority filing of the application), and the inventor exercised diligence from at least a time prior to that date in constructively reducing the claimed invention to practice. *See*, Declaration Pursuant to 37 C.F.R. 1.131. Accordingly, the Fairman patent cannot support a rejection of the pending claims, and removal of the Fairman patent as a prior art reference adequately traverses the pending Section 102(e) rejection and withdrawal of the rejection is respectfully requested.

In response to the Examiner's refusal to consider Applicant's Rule 131 Declaration for lack of dates, Applicant asserts that dates are not required on the supporting documents provided the Applicant "merely allege that the acts referred to occurred prior to a specified date." (*See*, MPEP § 715.07, Establishment of Dates paragraph, page 700-231) The "specified date" here being July 29, 1999, which is the application filing/priority date of the Fairman patent. Applicant's Rule 131

Declaration contains the required allegation. Therefore, Applicant's Rule 131 Declaration is proper and must be considered by the Examiner.

In view of the foregoing, the Applicant respectfully requests that the outstanding Final Office Action be withdrawn, submits that claims 1, 2, 9, 10, 17 and 18 are patentably distinguishable over the prior art of record, and requests a notice of allowance to that effect be issued.

### **35 U.S.C. § 103(a) Rejections**

#### **Claims 3, 4, 11, 12, 19 and 20 are Patentable Over the Prior Art**

Claims 3, 4, 11, 12, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fairman in view of Osborne, U.S. Patent No. 6,078,733. Applicant respectfully traverses the rejection.

Regarding claims 3, 4, 11, 12, 19 and 20, for at least those reasons given above for claims 1, 9 and 17 the Examiner has also failed to establish a *prima facie* case of obviousness of these claims. Therefore, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness for claims 3, 4, 11, 12, 19 and 20. Accordingly, Applicant respectfully requests that the Section 103 rejection be withdrawn and a notice of allowance be issued for claims 3, 4, 11, 12, 19 and 20.

**Claims 5, 6, 13, 14, 21 and 22 are Patentable Over the Prior Art**

Claims 5, 6, 13, 14, 21 and 22 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Fairman in view of Osborne and further in view of Krishnan et al., U.S. Patent No. 4,922,416.

Applicant respectfully traverses the rejection.

Regarding claims 5, 6, 13, 14, 21 and 22, for at least those reasons given above for claims 1, 9 and 17, Applicant believes that the Examiner has failed to establish a *prima facie* case of obviousness for claims 5, 6, 13, 14, 21 and 22. Accordingly, Applicant respectfully requests that the Section 103 rejection be withdrawn and a notice of allowance be issued for claims 5, 6, 13, 14, 21 and 22.

**Claims 7, 8, 15, 16, 23 and 24 are Patentable Over the Prior Art**

Claims 7, 8, 15, 16, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fairman in view of Osborne and further in view of Krishnan et al. and Chow et al, U.S. Patent No. 6,052,387. Applicants respectfully traverse the rejection.

Regarding claims 7, 8, 15, 16, 23 and 24, for at least those reasons given above for claims 1, 9 and 17, Applicant believes that the Examiner has failed to establish a *prima facie* case of obviousness for claims 7, 8, 15, 16, 23 and 24. Accordingly, Applicant respectfully requests that the Section 103 rejection be withdrawn and a notice of allowance be issued for claims 7, 8, 15, 16, 23 and 24.

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Therefore, Applicant believes all of the pending claims are allowable and respectfully requests timely issuance of a notice of allowance thereto.

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### CONCLUSION

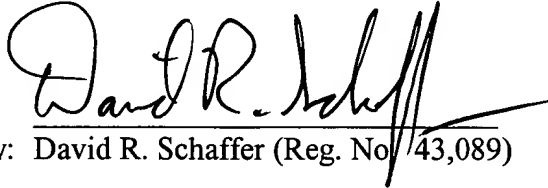
In view of the above remarks, the Applicant respectfully requests that the outstanding Final Office Action be withdrawn and submits that the present case is in condition for allowance and again requests that the Examiner issue a notice of allowance to that effect for all currently pending claims.

Applicants authorize the Commissioner to charge any fees determined to be due under 37 C.F.R. § 1.16 or § 1.17 or credit any overpayment to Deposit Account No. 11-0600.

The Examiner is invited to contact the undersigned at (202) 220-4263 to discuss any matter concerning this application.

Respectfully submitted,

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